

APPEAL NO. 030490
FILED APRIL 16, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A consolidated contested case hearing (CCH) was held on January 29, 2003. With respect to (docket 1), the hearing officer determined that the injury of (date of injury for Docket No. 1), does not extend to the respondent/cross appellant's (claimant) left carpal tunnel syndrome and that the claimant had disability resulting from the (date of injury for Docket No. 1), compensable injury beginning on September 26, 2002, and continuing through the date of the CCH. The appellant/cross-respondent (carrier) appeals the disability determination, contending that the claimant's disability, if any, is related to noncompensable conditions. The claimant responds to the carrier's appeal contending that the carrier had the burden to prove that the claimant's disability was solely caused by the noncompensable conditions. The claimant also appeals, contending that the hearing officer's determination that her injury did not extend to her left carpal tunnel syndrome is against the great weight of the evidence.

With respect to (docket 2), the hearing officer determined that the claimant did not sustain a compensable injury on (date of injury for Docket No. 2), and that the claimant did not have disability as a result of that alleged injury. The claimant appeals, contending that the hearing officer did not review all of the evidence and that his determinations are against the great weight of the evidence. The carrier responds to the appeal urging affirmance.

DECISION

Affirmed as modified.

Regarding the claimant's contention that the hearing officer did not review all of the evidence, we find nothing in the record to support the claimant's assertion. In fact the hearing officer inquired during the course of the hearing whether either of the parties wanted to point out any evidence in the medical records that they believe was important because some of the handwriting could be considered not legible. After being given the opportunity to point out what she believed was important, the claimant's attorney stated, "That's all I'd like to point out." There is nothing in our review of the record to indicate that the hearing officer did not review and consider all the evidence in the record.

We note that the parties stipulated that the claimant did not have disability on September 26, 2002. Even though the parties had stipulated otherwise, the hearing officer determined that disability began on September 26, 2002; consequently, we modify the hearing officer's determination to indicate that the claimant had disability beginning September 27, 2002, and continuing through the date of the CCH.

Whether the claimant sustained a compensable injury and had disability are factual questions for the hearing officer to resolve. The hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence, as well as the weight and credibility that is to be given to the evidence. Section 410.165(a). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We have reviewed the matters complained of on appeal and conclude that the hearing officer's decisions are supported by sufficient evidence.

As modified, we affirm the decision and order of the hearing officer.

The true corporate name of insurance carrier is **ZURICH AMERICAN INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**GARY SUDOL
9330 LBJ FREEWAY, SUITE 1200
DALLAS, TEXAS 75243.**

Roy L. Warren
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Chris Cowan
Appeals Judge